

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF EAST KENTUCKY NETWORK,)	
LLC DBA APPALACHIAN WIRELESS FOR THE)	
ISSUANCE OF A CERTIFICATE OF PUBLIC)	CASE NO.
CONVENIENCE AND NECESSITY TO CONSTRUCT)	2015-00377
A TOWER IN BREATHITT COUNTY, KENTUCKY)	

ORDER

On February 23, 2016, East Kentucky Network, LLC d/b/a Appalachian Wireless (“Applicant”) tendered an application seeking a Certificate of Public Convenience and Necessity (“CPCN”) to construct and operate a wireless telecommunications facility that was deemed filed on March 7, 2016.¹ The proposed facility consists of a self-supporting antenna tower not to exceed 310 feet in height, with attached antenna, to be located near 124 Charles Back Drive, approximately seven-tenths of a mile northwest of Wolf Coal, Breathitt County, Kentucky. The coordinates for the proposed facility are North Latitude 37° 24’ 4.83” by West Longitude 83° 23’ 26.19”.

The Applicant has provided information regarding the structure of the tower, safety measures, and antenna design criteria for the proposed facility. Based upon the application, the design of the tower and foundation conforms to applicable nationally recognized building standards, and a licensed professional engineer has certified the plans.

¹ On March 2, 2016, the Commission informed Applicant that its application tendered on February 23, 2016 was deficient. The application was supplemented and deemed filed on March 7, 2016.

Pursuant to 807 KAR 5:063, the Applicant has filed statements of having provided the required notifications regarding the proposed construction. Pursuant to 807 KAR 5:063, the Applicant has filed evidence that the county judge/executive and all property owners within 500 feet and contiguous to the cell site have been notified of the proposed construction. The notices solicited any comments and informed the recipients of their right to request intervention.

The Commission received comments from Woody Allen objecting to the proposed construction. The Applicant was directed to provide a written response to Mr. Allen addressing his comments, and Mr. Allen was simultaneously informed of the right to request intervention if the Applicant failed to satisfy his concerns regarding the proposed construction. The Applicant subsequently filed a written response to Mr. Allen and later filed correspondence indicating that Mr. Allen's concerns had been satisfied. To date, no further comments or requests for intervention have been received by the Commission.

The Applicant has filed determinations of the Federal Aviation Administration and the Kentucky Airport Zoning Commission approving the construction and operation of the proposed facility.

The Commission, having considered the evidence of record and being otherwise sufficiently advised, finds that the Applicant has demonstrated that a facility is necessary to provide adequate utility service and, therefore, a CPCN to construct the proposed facility should be granted.

Pursuant to KRS 278.280, the Commission is required to determine proper practices to be observed when it finds, upon complaint or on its own motion, that the facilities of any utility subject to its jurisdiction are unreasonable, unsafe, improper, or insufficient. To assist the Commission in its efforts to comply with this mandate, the Applicant should notify the Commission if the antenna tower is not used to provide service in the manner set out in the application and this Order. Upon receipt of such notice, the Commission may, on its own motion, institute proceedings to consider the proper practices, including removal of the unused antenna tower, which should be observed by the Applicant.

IT IS THEREFORE ORDERED that:

1. The Applicant is granted a CPCN to construct a wireless telecommunications facility. The proposed facility consists of a self-supporting antenna tower not to exceed 310 feet in height, with attached antenna, and is to be located near 124 Charles Back Drive, approximately seven-tenths of a mile northwest of Wolf Coal, Breathitt County, Kentucky. The coordinates for the proposed facility are North Latitude 37° 24' 4.83" by West Longitude 83° 23' 26.19".

2. The Applicant shall immediately notify the Commission in writing if, after the antenna tower is built and utility service is commenced, the tower is not used for a period of three months in the manner authorized by this Order.

3. Documents filed, if any, in the future pursuant to ordering paragraph 2 shall reference this case number and shall be retained in the utility's general correspondence file.

By the Commission

ENTERED
MAY 17 2016
KENTUCKY PUBLIC
SERVICE COMMISSION

ATTEST:



Acting Executive Director

Case No. 2015-00377

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